



American League of Financial Institutions

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December 16, 1997

Handwritten signature and date: 12/16/97

Cynthia L. Johnson
Director
Cash Management Policy and Planning Division
Financial Management Service
U.S. Department of the Treasury
Room 420
401 14th Street, S.W.
Washington, D.C. 20227

Re: Management of Federal Agency Disbursements
31 CFR Part 208, RIN 1510-AA56

Dear Ms. Johnson:

The American League of Financial Institutions (ALFI) welcomes the opportunity to comment on the Department of the Treasury's proposed rulemaking regarding Management of Federal Agency Disbursements. ALFI is the national trade association chartered in 1948 to represent the legislative and regulatory concerns of African-American, Hispanic-American and Asian-American community savings banks and savings and loan associations. These 41 financial institutions represent \$6.2 billion in assets, with 109 branches, and approximately 1,200 employees.

On September 16, 1997, the Financial Management Service, Fiscal Service, of Treasury published a notice of proposed rulemaking and notice of public hearings. ALFI participated in public hearings and Treasury's EFT '99 Education Campaign Community Outreach Initiative meeting hosted by John D. Hawke, Jr., Under Secretary of the Treasury for Domestic Finance in both Washington, D.C. and Los Angeles, California. Our comments have been reflected in those meetings, and are offered as official comments based on Treasury's proposed rulemaking.

Treasury is considering various approaches to implementing the requirement that an EFT account be provided to cash consumers. We recommend a voluntary program in which financial institutions interested in offering the account may participate, in lieu of Treasury selecting one or more Federally-insured financial institutions to act as Treasury's financial agent.

The concerns of identifying institutions willing to participate and monitoring their activities would not require the creation and maintenance of a regulatory infrastructure.

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Federally-insured institutions in good standing, as determined by annual federal examinations, would self-select by notifying Treasury of their interest. Monitoring compliance with the terms of the structured EFT account could be a part of regular Compliance and Safety and Soundness examinations. This approach would enhance consumer choice, and market competition would insure cost reasonableness.

On the other hand, selection of one or more financial agents would be wholly inappropriate for the following reasons:

Treasury noticed that consumer organizations strongly urged that only federally insured financial institutions act as agents to insure consumer protection and cost reasonableness. Yet, the use of a select few financial agents would require the use of third party non-financial institutions in order to insure convenience and accessibility. Such third party participants are the very entities which consumer organizations sought to avoid.

Such an outcome is implied in that Treasury has commented that the designated financial agent will perform those functions that involve the disbursement of public funds, including the establishment of the recipient's account and crediting the Federal payment to the account. Providing access to funds, payment of bills and other financial services would be performed by non-financial institutions working in partnership with the financial agent.

This approach allows large money center banks to benefit from the EFT Act without incurring the assumed risks of providing convenience, access to funds and other financial products and services. Nor does such an approach accomplish the goal of moving consumers into the financial mainstream.

We believe that if consumer protection, convenience and cost reasonableness cannot be assured, the provisions of Section 208.5, which provide for access to an account by cash consumers and those that fail to provide information pursuant to Section 208.8, be interpreted as being voluntary. Individuals covered by Section 208.5 should not be required to open such accounts for the following reasons:

- The Social Security Administration reports that 76% of new Social Security and SSI recipients are receiving payments by EFT. Thus, by virtue of natural attrition and increased efforts to educate consumers, over time there will be increased use of EFT and Direct Deposit.
- One of Treasury's stated goals in implementing the EFT Act is to make certain that "...recipients have access to their funds at a reasonable cost."

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One quantifiable basis for establishing reasonableness would be to require that EFT account costs be less than current check cashing costs. Treasury should not require cash consumers to pay more to receive payments electronically.

Financial institutions argue that cost reasonableness is a function of the costs to provide a particular service or product plus profit, and that costs vary by institution and market.

It would be extremely difficult, if not impossible, to structure an account, as structured below, which meets the needs of cash consumers, is reasonably priced, is accessible to recipients without the use of third party arrangements, and is profitable to financial institution providers.

- Another stated goal of Treasury is to provide recipients with "... appropriate consumer protection". Treasury cannot provide appropriate consumer protection to recipients who are forced to access Federal payments from unregulated third party non-financial institutions.
- Finally, it is a stated goal of Treasury to deliver Federal payments to recipients conveniently. Within the current financial system, financial institutions cannot insure accessibility and convenience in underserved communities without seeking the participation of third party non-financial institutions. Such an outcome would raise regulatory issues of safety and soundness and cost reasonableness.

Underserved communities, by definition, are ones without an adequate number of service facilities, including financial institutions. All financial institutions seeking to offer 208.5 accounts should be required to provide a distribution plan for cash consumers in underserved communities which does not require the use of third party non-financial institution participants or exclusive ATM access.

We recommend that any basic EFT account that is provided include the following characteristics, and that financial institution providers be mandated to conform to the criteria listed below:

- Debit card should be available, but not required;
- Cost of the account to the recipient should be important factor;
- Account structure should be geared to basic withdrawal at lowest possible cost;
- Minimum of four withdrawals should be included in basic account;
- Account terms should address ATM charges imposed by other institutions other than the account provider;

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- Account structure should provide for additional electronic deposits of at least four;
- Account should provide for third party accounts;
- Account should include a savings feature;
- Physical distribution sites should exist within close proximity to account holders, if none exist, plans to add distribution outlets should be included in the response for proposals;
- Third party non-financial institutions should not be allowed to participate in the delivery of services to Federal payment recipients for the same safety and soundness reasons that non-financial institutions were not included as distribution outlets within the rule.

In implementing the EFT Act, Treasury seeks to bring into the financial mainstream the 10 million cash consumers who receive Federal payments, and who currently do not use the financial system to receive funds, make payments, save, borrow or invest. Before bringing cash consumers into the financial system, Treasury should evaluate the financial system environment and the receptivity of the system to include cash consumers.

Cash consumers are characterized by certain transaction habits, which include a preference for in-person transactions, check cashing, cash and money order purchases and payments, and an inability or unwillingness to maintain deposit balances.

Such transactional habits run counter to the direction which financial institutions are encouraging consumers to move, and thus have associated with them higher fees and costs. Thus, EFT 99 may transition cash consumers from cashing federal checks for a fee to establishing EFT accounts, which incur excessive bank charges for unprofitable transactional habits.

Treasury should not mandate an option which benefits the government at the consumer's expense. The government's distribution costs are in effect being transferred to the cash consumer via increased bank charges.

Finally, you should realize that by mandating receipt of Federal payments by electronic funds transfer, you are forcing cash consumers to enter a hostile banking environment, and to utilize a financial system that has been unresponsive to their financial needs and that has not adequately served low-income markets. Therefore, we strongly encourage you to address changes to the financial banking system before you address changes to the financial banking system before mandating its use.

We appreciate this opportunity to comment on this important matter, and look forward to answering any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Dina Nichelson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Dina Nichelson
On Behalf of the Membership

cc: ALFI Board of Directors
ALFI Membership